

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

UNITED STATES OF AMERICA,)
)
Petitioner,)
)
vs.) Civil No. 0-cv-00692-DRH-CJP
)
PHILLIP L. YARBER,)
)
Respondent.)

**UNITED STATES OF AMERICA'S PETITION TO
ENFORCE INTERNAL REVENUE SUMMONS**

The petitioner, United States of America, by its attorneys, Stephen R. Wigginton, United States Attorney for the Southern District of Illinois, and Laura J. Jones, Assistant United States Attorney alleges as follows:

1. This is a proceeding brought pursuant to the provisions of 26 U.S.C. §§ 7402(b) and 7604(a), to judicially enforce an Internal Revenue Service summons.

2. Benjamin L. Chavez is a revenue officer of the Internal Revenue Service, who is employed in the Office of the Internal Revenue Service, St. Louis, Missouri, and is authorized to issue a Internal Revenue Service summons pursuant to the authority contained in 26 U.S.C. § 7602 and Treasury Regulation § 301.7602-1, 26 C.F.R. § 301.7602B1.

3. Respondent, Phillip L. Yarber, is found at 1575 Green Mount Lane, Belleville, Illinois 62220-3459, within the jurisdiction of this Court.

4. Revenue Officer Benjamin L. Chavez is conducting an investigation into the determination of respondent's personal tax liabilities for 2004, 2005, 2006, 2007, and 2008, as set forth in the declaration of Revenue Officer Chavez attached hereto as Exhibit 2.

5. Respondent is in possession and control of testimony, books, records, papers, and

other data that are relevant to the above-described investigation.

6. On May 4, 2010, Revenue Officer Benjamin L. Chavez issued an Internal Revenue Service summons directing respondent to appear before him on June 1, 2010, at 2:00 p.m., at 1222 Spruce Street, Room 9.203, St. Louis, Missouri, 63103-2818, and to produce books, papers, records, and other data as described in the summons from which the Internal Revenue Service could determine respondent's personal tax liabilities for 2004, 2005, 2006, 2007 and 2008 and to testify about those records. An attested copy of the summons was served on respondent by leaving a copy of the summons with his son, Luke Yarber, at respondent's last and usual place of abode by Revenue Officer Chavez on May 10, 2010. The summons is attached hereto and incorporated herein as Exhibit 1.

7. Respondent did not appear on June 1, 2010, or otherwise comply with the terms of the summons. On July 16, 2010, respondent was afforded another opportunity to comply with the summons. The meeting was rescheduled for August 2, 2010. Respondent's refusal to comply with the summons continues to date, as set forth in the declaration of Revenue Officer Chavez.

8. The books, papers, records, or other data sought by the summons are not already in possession of the Internal Revenue Service.

9. All administrative steps required by the Internal Revenue Code for the issuance of summons have been taken.

10. No Justice Department referral, as defined by 26 U.S.C. § 7602(d), is in effect with respect to respondent for the years under investigation.

11. It is necessary to obtain and examine the books, papers, records, or other data sought by the summons in order to determine respondent's personal tax liabilities for 2004, 2005, 2006,

2007, and 2008, as evidenced by the declaration of Revenue Officer Chavez.

WHEREFORE, petitioner respectfully prays:

1. That the Court issue an order directing the respondent, Phillip L. Yarber, to show cause, if any, why he should not comply with and obey the aforementioned summons and each and every requirement thereof.
2. That the Court enter an order directing the respondent, Phillip L. Yarber, to obey the aforementioned summons and each and every requirement thereof by ordering the attendance, testimony, and production of books, papers, records, or other data as is required and called for by the terms of the summons before Revenue Officer Chavez or his delegate, at such time and place as may be fixed by Revenue Office Chavez or his delegate.
3. That the United States recovers its costs in maintaining this action.
4. That the Court grant such other and further relief as is just and proper.

UNITED STATES OF AMERICA

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